

Precautions to be taken by all Administrative Departments in Mantralaya, and their Allied/Subordinate Offices while Filing Affidavits in the Courts/Tribunals.

GOVERNMENT OF MAHARASHTRA

Law and Judiciary Department,

Circular No. 1117/"E"

Mantralaya, Mumbai-400032, Dated the 5th Sept 2003,

CIRCULAR

The Assistant Government Pleader, (A.S.), Mumbai, has brought to the notice of undersigned that while hearing of Contempt Petition was going on, the Hon'ble High Court has perused an Affidavit-in-reply filed by one of the administrative departments of Mantralaya, wherein it was stated that the grievance in that petition will have to be resolved in consultation with the Finance Ministry. The Assistant Government Pleader informed as under:-

"Upon going through the said affidavit-in-reply, the Division Bench comprising of Their Lordships Mr. Justice V.G.Paisnikar and Mr. Justice D.B.Bhosale, orally expressed displeasure over the fact that when the State of Maharashtra is made a party, Government chooses to file an affidavit-in-reply through one of its department and points finger to the other department. This does not solve the problem. Due to this, sometimes, Hon'ble High Court is required to call Secretaries to remain present in the Court. Thus, the Hon'ble Judges wish to avoid. According to the Division Bench, this can be avoided if the Government files affidavit expressing the stand of the Government as a whole."

In view of the oral observations of the Hon'ble High Court stated above, all the Administrative Departments in Mantralaya are requested to take precautions while filing affidavits before the Courts/ Tribunals and they should refrain from pointing fingers to other departments. The stand vouched in the Affidavit should represent the Government as a whole irrespective of the fact that it is filed by any particular department. The Administrative Departments are further requested to bring this circular to the notice of all the Allied/Subordinate Offices working under them instructing to follow these guidelines scrupulously.

**By order and in the name of the
Governor of Maharashtra,**

Sd/-
(S.R. Dongaonkar)

I/c. Principal Secretary & R.L.A.

Copy to:-

- All the Administrative Department in Mantralaya,
- The Government Advocate, Supreme Court, New Delhi.
- The Government Pleader, High Court (Original Side), Mumbai,
- The Additional Government Pleader, High Court (Appellate Side), Mumbai,
- The Government Pleader, High Court, Nagpur/Aurangabad,
- The Chief Presenting Officer, Maharashtra Administrative Tribunal,
Mumbai/Nagpur/Aurangabad,
- All the District Government Pleaders in the State of Maharashtra,
- The Joint Secretary, Law and Judiciary Department, Nagpur/Aurangabad,
- All Deputy Secretaries (Law)/ Under Secretaries (Law),
- All the Desks in Law and Judiciary Department, Mantralaya, Mumbai,
- 'M' Branch, 'A' Branch, 'B' Branch.